

Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D. C.

(General Regulations, Series D)

**REGULATIONS GOVERNING PETITIONS AND HEARINGS
UNDER SUBSECTION (15) (A) OF SECTION 8c OF THE
AGRICULTURAL ADJUSTMENT ACT RELATING TO
MODIFICATION OF, OR EXEMPTION FROM, ORDERS**

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, HENRY A. WALLACE, Secretary of Agriculture, do make, prescribe, publish, and give public notice of the following regulations with the force and effect of law, to be in force and effect from the date of approval hereof until amended or superseded by regulations hereafter made by the Secretary of Agriculture with the approval of the President under said Act.

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto in the City of Washington this 16th day of October, 1935.



H. Wallace

Secretary of Agriculture.

Approved:

Franklin D. Roosevelt

The President of the United States.

THE WHITE HOUSE, October 24, 1935.

ARTICLE I—DEFINITIONS

SECTION 100.¹ As used in these regulations:

- (a) The term "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.
- (b) The term "Secretary" means the Secretary of Agriculture of the United States.
- (c) The term "Department" means the United States Department of Agriculture.
- (d) The term "Hearing Clerk" means the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C.

¹ The sections of these regulations are numbered according to the corresponding numbers of the articles. Thus the first section of the first article is Section 100, the first section of the second article is Section 200, etc.

(e) The term "order" means any order, or any amendment thereto, which may be issued by the Secretary pursuant to Sections 8c or 10 (i) of the Act, or pursuant to Sections 56-60, inclusive, of an Act of Congress, approved August 24, 1935, relating to handlers of anti-hog-cholera serum and hog-cholera virus.

(f) The term "handler" means any processor, association of producers, or other individual, partnership, corporation, association, or other business unit engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of Section 8c of the Act, or in the handling of anti-hog cholera serum or hog-cholera virus, and subject to an order issued by the Secretary.

ARTICLE II—PETITIONS AND INTERROGATORIES

SECTION 200. Filing.—All written petitions filed by handlers with the Secretary pursuant to subsection (15) (A) of Section 8c of the Act shall be addressed to the Secretary and filed, in triplicate, in the Office of the Hearing Clerk in the Department, Washington, D. C., and shall there be available for public inspection.

SECTION 201. Contents of Petition.—Such written petitions shall conform to the requirements of the Act and should contain:

(a) The correct name, address, and principal place of business of the petitioner. If petitioner is incorporated, such fact should be stated together with the name of the State of incorporation, the date of incorporation, and the names, addresses and respective positions held by its officers and directors; if an unincorporated association, the names and addresses of its officers, and the respective positions held by them; if a partnership, the name and address of each partner.

(b) A statement of the specific terms or provisions of the order which are complained of.

(c) A full statement of the facts (avoiding a mere recitation of detailed evidence) upon which the petition is based, and which it is desired that the Secretary consider, setting forth clearly and concisely the nature of the petitioner's business and the manner in which it is, or is claimed to be, affected by the terms or provisions of the order which are complained of.

(d) A statement of the legal grounds on which the terms or provisions of the order which are complained of are challenged as not in accordance with law.

(e) Prayers for the specific relief which the petitioner desires the Secretary to grant.

(f) A statement of whether a hearing upon the petition is desired.

(g) An affidavit by the petitioner, or, if the petitioner is not an individual, by some officer of the petitioner having knowledge of the facts stated in the petition, verifying the petition and stating that it is filed in good faith and not for delay.

SECTION 202. Insufficient Petition.—If the Secretary, or such officer or employee of the Department as he may designate for the purpose, finds that any petition filed does not substantially comply with subsection (15) (A) of Section 8c of the Act, the petitioner shall be so advised, and a copy of these Regulations shall be sent to the petitioner by depositing the same in the United States mails, registered and addressed to the petitioner at the last known business address of the petitioner, and the petitioner may thereupon file, in

accordance with said Regulations, a sufficient petition complying substantially with said provisions of the Act.

SECTION 203. Interrogatories.—At any time before hearing upon a sufficient petition, as hereinafter provided for, the Secretary, or such officer or employee of the Department as he may designate for the purpose, may propound to the petitioner, for discovery by him of material facts and documents, written interrogatories relating to the petitioner's business and relevant to the issues raised by the petition. A copy of such interrogatories shall be served upon the petitioner by registered mail and the petitioner shall file in triplicate in the Office of the Hearing Clerk full and complete answers to each question propounded and shall verify the answers by affidavit. Such answers shall be filed on or before a date to be stated in the interrogatories, which date shall not be earlier than five full days after the date on which the interrogatories are mailed to the petitioner. The interrogatories and answers thereto, or any part thereof, may be admitted in evidence if relevant to the issues, in any hearing held upon the petition.

ARTICLE III—HEARINGS

SECTION 300. Notice of Hearing.—Upon the filing of a sufficient petition and request for hearing, the Secretary, or such officer or employee of the Department as he may designate for the purpose, shall appoint a time and designate a place for a hearing thereon, which hearing shall be held, at the option of the Secretary, in the State where the petitioner transacts business affected by the order, or in the State where the agency created to administer the provisions of the particular order in question has its administrative offices, or in Washington, D. C.; or the hearing may be held at any other place which is mutually agreeable to the Secretary and the petitioner. The Secretary, or such officer or employee of the Department as he may designate for the purpose, shall give the petitioner a written notice which shall specify the time, place, and purpose of said hearing, by serving such written notice personally upon such petitioner at least three days prior to the date appointed for the hearing, or by depositing such written notice at least five days prior to the date appointed for the hearing in the United States mails, registered and addressed to such petitioner at the last known business address of the petitioner.

SECTION 301. Withdrawal of Petition.—If, at any time after the petition is filed, the petitioner withdraws the same or withdraws the request for a hearing, the Secretary may thereupon dismiss the petition or make final rulings upon the prayers of the petition without further proceedings in the case.

SECTION 302. Conduct of Hearing.—Every such hearing shall be conducted by a Presiding Officer, who shall be the Secretary, or such officer or employee of the Department as he may designate for the purpose. Any such designation may be made or revoked by the Secretary at any time before or during such hearing. Such hearing shall be conducted in the manner to be determined by the Presiding Officer as will be most conducive to the proper dispatch of business and the attainment of justice. In determining the scope of the hearing and the admissibility of evidence, the Presiding Officer shall, as far as possible, confine the same to matters relevant to the specific issues set forth or raised in the petition.

SECTION 303. Parties.—The parties to every such proceeding shall be the Secretary, who may be represented at the hearing by the Presiding Officer or by counsel, and the petitioner, who may appear in person or by counsel.

SECTION 304. Time and Place of Hearing.—Such hearing shall be held at the time and place set forth in the notice of hearing, or in any subsequent notice amending or superseding a prior notice, and may also, without notice other than announcement thereof at the hearing by the Presiding Officer, in the exercise of his discretion, be continued from day to day or adjourned to a different place, or to a later date, or to a date and place to be fixed in a subsequent notice to be later issued in the manner provided in Section 300 hereof.

SECTION 305. Non-Appearance of Petitioner.—If at the time of said hearing any party to the proceeding is absent and no appearance is made on behalf of such party, the Presiding Officer shall, after the lapse of such period of time as he may consider proper and reasonable, have the name of such absent party called in the hearing room. If upon such call there is no response and no appearance on behalf of such absent party, the Presiding Officer may thereupon close the hearing, and the Secretary, without further proceedings in the case, may dismiss the petition or make final rulings upon the prayers of the petition.

SECTION 306. Evidence.—At any such hearing the Presiding Officer need not apply the technical rules of evidence, and affidavits of general economic facts relevant to the issues and bearing upon the validity or invalidity of the challenged order may be admitted in evidence and considered by the Secretary. The record of the general hearing held by the Secretary pursuant to which the challenged order was issued, or any relevant portions thereof, may likewise be admitted in evidence.

SECTION 307. Burden of Proof.—Upon all issues of fact at the hearing raised by the petition the burden of proof shall be upon the petitioner.

SECTION 308. Time Consumed by Hearing; Briefs; Copies of Transcript.—(a) Full opportunity to be heard upon the issues raised by the petition shall be afforded to all parties to such proceeding, but the hearing shall be concluded within such reasonable time as the Presiding Officer shall determine, at which time, or within such time thereafter and upon such terms as the Presiding Officer may designate, written briefs may be filed in the Office of the Hearing Clerk at Washington, D. C. (or, if the Presiding Officer so directs, with the Presiding Officer). Such written briefs shall be typewritten, mimeographed or printed, and shall be filed in triplicate. A copy of such written briefs shall be available for public inspection at the Office of the Hearing Clerk.

(b) Any person desiring a copy of the transcript of testimony shall be entitled to the same upon application to the Solicitor and upon payment of the fees fixed by the General Regulations of the Department.

SECTION 309. Consolidated Hearings.—At the discretion of the Secretary, or such officer or employee of the Department as he may designate for the purpose, or the Presiding Officer, hearings upon two or more petitions filed by different handlers pertaining to the

same order may be consolidated and the evidence taken at such consolidated hearing may be embodied in a single record.

SECTION 310. Execution of Procedural Documents.—All designations, notices, and other documents requiring the signature of the Secretary under the provisions of these regulations, except findings of fact and final rulings upon the prayers of the petition, may be signed in the name of the Secretary by such officer or employee of the Department as the Secretary may designate for the purpose, and any such designation may be made or revoked by the Secretary at any time before or during any proceeding.

SECTION 311. Amendments.—Upon due application and within the discretion of the Secretary, or of such officer or employee of the Department as he may designate for the purpose, or the Presiding Officer, the right of amendment of the petition and of all procedural documents in connection with any hearing shall be granted on such reasonable terms as to the Secretary, or to such officer or employee of the Department as he may designate for the purpose, including the Presiding Officer, in the exercise of his discretion, may seem right and proper.

SECTION 312. Reopening Hearing.—The Secretary, or such officer or employee of the Department as he may designate for the purpose, or the Presiding Officer, may in his discretion, on his own motion or upon due application therefor made prior to the making of final rulings by the Secretary upon the prayers of the petition, reopen the hearing for the purpose of taking additional evidence.

SECTION 313. The Record.—Every such hearing shall be publicly conducted, and the testimony given at the hearing shall be reported *verbatim*. The record of the proceeding shall consist of the petition, notices, procedural documents, challenged order, pertinent General Regulations, transcript of testimony, and all documentary evidence offered and received at the hearing. As soon as practicable after the conclusion of the hearing the Presiding Officer shall transmit the record of the proceeding to the Office of the Hearing Clerk, where it shall be available for public inspection. The Presiding Officer shall attach to the original transcript of testimony his certificate stating that the transcript is a true, correct and complete transcript of the testimony given at the hearing, except in such particulars as he shall specify, and that the exhibits transmitted are all the exhibits received in evidence at the hearing, with such exceptions as he shall specify. A copy of such certificate shall be attached to each copy of the transcript of testimony. In accordance with such certificate the Presiding Officer shall note on the original transcript, and the Hearing Clerk shall note upon each copy of the transcript, each correction detailed in such certificate by adding or crossing out (but without obscuring the text as originally transcribed) at the appropriate places any words necessary to make the text conform to the correct meaning.

SECTION 314. Rulings.—The Secretary shall render his decision based upon the record, by making such final rulings upon the prayers of the petition as may be proper and in accordance with law, either dismissing the petition, or modifying the terms or provisions of the order as applied to the petitioner, or exempting the petitioner from the application of the order. Such rulings shall contain specific

findings of fact of the Secretary and shall be filed in the Office of the Hearing Clerk and shall there be available for public inspection.

SECTION 315. Service of Rulings.—As soon as practicable after the making and filing thereof, such findings of fact and rulings shall be served upon the petitioner either personally or by depositing the same in the United States mails, registered and addressed to the petitioner at the last known place of business of the petitioner. Actual notice of the contents of the order given the petitioner personally, either orally or in writing, or the said mailing and the expiration of forty-eight hours from the time of such mailing if the address of the petitioner is east of the Mississippi River, or the said mailing and the expiration of seventy-two hours from the time of said mailing if the address of the petitioner is west of the Mississippi River, shall constitute the giving of notice to the petitioner of the Secretary's ruling within the meaning of subsection (14) of Section 8c of the Act.

ARTICLE IV—CONSTRUCTION

SECTION 400. Nothing contained in these regulations shall be, or shall be construed to be, in derogation or modification of the rights of the Secretary or of the United States (1) to exercise any jurisdiction or powers granted by the Act or otherwise, and/or (2) to act in the premises in accordance with such jurisdiction and powers whenever such action is deemed advisable.

ARTICLE V—PUBLIC NOTICE OF FOREGOING REGULATIONS—HOW GIVEN

SECTION 500. Notice of Regulations.—Public notice of the issuance of the foregoing regulations shall be given by (a) posting a copy of such regulations on the official bulletin board of the Department at Washington, D. C.; (b) issuing a press release containing a description of such regulations, and making available in the Office of the Hearing Clerk copies of such regulations for the press; and (c) forwarding by mail copies of such regulations to the Governors of the several States of the United States and to the executive heads of the Territories of the United States.

